

111TH CONGRESS
1ST SESSION

S. 1025

To prohibit termination of employment of volunteer firefighters and emergency medical personnel responding to emergencies or major disasters, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2009

Mr. CARPER (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit termination of employment of volunteer firefighters and emergency medical personnel responding to emergencies or major disasters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Volunteer Firefighter
5 and EMS Personnel Job Protection Act”.

1 **SEC. 2. VOLUNTEER FIREFIGHTER AND EMS PERSONNEL**
 2 **JOB PROTECTION.**

3 Title VII of the Robert T. Stafford Disaster Relief
 4 and Emergency Assistance Act (42 U.S.C. 5201 et seq.)
 5 is amended by adding at the end the following:

6 **“SEC. 707. VOLUNTEER FIREFIGHTER AND EMS PER-**
 7 **SONNEL JOB PROTECTION.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) QUALIFIED VOLUNTEER FIRE DEPART-
 10 MENT.—The term ‘qualified volunteer fire depart-
 11 ment’ has the meaning given such term in section
 12 150(e) of the Internal Revenue Code of 1986.

13 “(2) VOLUNTEER EMERGENCY MEDICAL SERV-
 14 ICES.—The term ‘volunteer emergency medical serv-
 15 ices’ means emergency medical services performed
 16 on a voluntary basis for a fire department or other
 17 emergency organization.

18 “(3) VOLUNTEER FIREFIGHTER.—The term
 19 ‘volunteer firefighter’ means an individual who is a
 20 member in good standing of a qualified volunteer
 21 fire department.

22 “(b) TERMINATION OF EMPLOYMENT OF VOLUN-
 23 TEER FIREFIGHTERS AND EMERGENCY MEDICAL PER-
 24 SONNEL PROHIBITED.—

25 “(1) TERMINATION PROHIBITED.—No employee
 26 may be terminated, demoted, or in any other manner

1 discriminated against in the terms and conditions of
2 employment because such employee is absent from
3 or late to the employee's employment for the pur-
4 pose of serving as a volunteer firefighter or pro-
5 viding volunteer emergency medical services as part
6 of a response to an emergency or major disaster.

7 “(2) DEPLOYMENT.—The prohibition in para-
8 graph (1) shall apply to an employee serving as a
9 volunteer firefighter or providing volunteer emer-
10 gency medical services if such employee—

11 “(A) is specifically deployed to respond to
12 the emergency or major disaster in accordance
13 with a coordinated national deployment system
14 such as the Emergency Management Assistance
15 Compact or a pre-existing mutual aid agree-
16 ment; or

17 “(B) is a volunteer firefighter who—

18 “(i) is a member of a qualified volun-
19 teer fire department that is located in the
20 State in which the emergency or major dis-
21 aster occurred;

22 “(ii) is not a member of a qualified
23 fire department that has a mutual aid
24 agreement with a community affected by
25 such emergency or major disaster; and

1 “(iii) has been deployed by the emer-
2 gency management agency of such State to
3 respond to such emergency or major dis-
4 aster.

5 “(3) LIMITATIONS.—The prohibition in para-
6 graph (1) shall not apply to an employee who—

7 “(A) is absent from the employee’s employ-
8 ment for the purpose described in paragraph
9 (1) for more than 14 days per calendar year;

10 “(B) responds on the emergency or major
11 disaster without being officially deployed as de-
12 scribed in paragraph (2); or

13 “(C) fails to provide the written
14 verification described in paragraph (5) within a
15 reasonable period of time.

16 “(4) WITHHOLDING OF PAY.—An employer
17 may reduce an employee’s regular pay for any time
18 that the employee is absent from the employee’s em-
19 ployment for the purpose described in paragraph
20 (1).

21 “(5) VERIFICATION.—An employer may require
22 an employee to provide a written verification from
23 the official of the Federal Emergency Management
24 Agency supervising the Federal response to the
25 emergency or major disaster or a local or State offi-

1 cial managing the local or State response to the
2 emergency or major disaster that states—

3 “(A) the employee responded to the emer-
4 gency or major disaster in an official capacity;
5 and

6 “(B) the schedule and dates of the employ-
7 ee’s participation in such response.

8 “(6) REASONABLE NOTICE REQUIRED.—An em-
9 ployee who may be absent from or late to the em-
10 employee’s employment for the purpose described in
11 paragraph (1) shall—

12 “(A) make a reasonable effort to notify the
13 employee’s employer of such absence; and

14 “(B) continue to provide reasonable notifi-
15 cations over the course of such absence.

16 “(c) RIGHT OF ACTION.—

17 “(1) RIGHT OF ACTION.—An individual who
18 has been terminated, demoted, or in any other man-
19 ner discriminated against in the terms and condi-
20 tions of employment in violation of the prohibition
21 described in subsection (b) may bring, in a district
22 court of the United States of appropriate jurisdic-
23 tion, a civil action against individual’s employer
24 seeking—

1 “(A) reinstatement of the individual’s
2 former employment;

3 “(B) payment of back wages;

4 “(C) reinstatement of fringe benefits; and

5 “(D) if the employment granted seniority
6 rights, reinstatement of seniority rights.

7 “(2) LIMITATION.—The individual shall com-
8 mence a civil action under this subsection not later
9 than 1 year after the date of the violation of the
10 prohibition described in subsection (b).”.

11 **SEC. 3. STUDY AND REPORT.**

12 (a) STUDY.—The Secretary of Labor shall conduct
13 a study on the impact that this Act could have on the
14 employers of volunteer firefighters or individuals who pro-
15 vide volunteer emergency medical services and who may
16 be called on to respond to an emergency or major disaster.

17 (b) REPORT.—Not later than 12 months after the
18 date of the enactment of this Act, the Secretary of Labor
19 shall submit to the appropriate congressional committees
20 a report on the study conducted under subsection (a).

21 (c) APPROPRIATE CONGRESSIONAL COMMITTEES.—
22 In this section, the term “appropriate congressional com-
23 mittees” means the Committee on Health, Education,
24 Labor, and Pensions and the Committee on Small Busi-
25 ness and Entrepreneurship of the Senate and the Com-

- 1 mittee on Education and the Workforce and the Com-
- 2 mittee on Small Business of the House of Representatives.

